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Attorneys for Defendant Sheri Jean Tanaka

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII**

UNITED STATES OF AMERICA,

Plaintiff,

v.

KEITH MITSUYOSHI KANESHIRO (1),
DENNIS KUNIYUKI MITSUNAGA (2),
TERRI ANN OTANI (3),
AARON SHUNICHI FUJII (4),
CHAD MICHAEL MCDONALD (5),
SHERI JEAN TANAKA (6),

Defendants.

Case No. CR-22-00048-TMB-NC

**DEFENDANT SHERI J. TANAKA'S
BRIEF RE: ATTORNEY-CLIENT
PRIVILEGE; CERTIFICATE OF
SERVICE**

Judge: Hon. Timothy M. Burgess

Defendant Sheri Jean Tanaka hereby files her brief regarding attorney-client privilege issues, as ordered by the Court on March 27, 2024 (ECF 587).

As the Court is aware, Ms. Tanaka was retained by Mitsunaga and Associates, Inc. (“MAI”) to represent it in numerous proceedings, including interactions with the DPA. At various times, Ms. Tanaka also represented individuals associated with MAI in their personal capacity.

It is premature for Ms. Tanaka to make any decision as to whether she will testify in her own defense. She therefore reserves her constitutional right to testify at trial. Depending on what evidence is introduced at trial prior to any such testimony, Ms. Tanaka’s testimony may implicate privileged attorney-client communications. In such circumstances, Ms. Tanaka’s Sixth Amendment constitutional right to testify in her own defense would prevail over a client’s evidentiary privilege to exclude attorney-client communications, particularly for any client who is not a defendant in this case. *See United States v. W.R. Grace*, 439 F. Supp. 2d 1125, 1148 (D. Mont. 2006).

DATED: April 8, 2024

Respectfully submitted,

HOLMES, ATHEY,
COWAN & MERMELSTEIN LLP

By: /s/ Mark Mermelstein
MARK MERMELSTEIN

*Attorneys for Defendant
Sheri Jean Tanaka*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served on the following counsel at their last known addresses by the CM/ECF system on the date indicated below:

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DATED: April 8, 2024

Respectfully submitted,

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